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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,779	08/17/2001	Yasuhisa Nakajima	SONYJP 3.0-203	3668

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EXAMINER
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ATALA, JAMIE JO

ART UNIT	PAPER NUMBER
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2621

MAIL DATE	DELIVERY MODE
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10/14/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/931,779	<b>Applicant(s)</b> NAKAJIMA, YASUHISA	
	<b>Examiner</b> JAMIE JO ATALA	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 30,32,34-36,41,42 and 60-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30,32,34-36,41,42 and 60-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 31, 2009 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection based on Garfinkle (US 5,400,402).

3. Claims 1-29, 31, 33, 37-40, 43-59 have been cancelled. Claims 30, 32, 34-36, 41-42, 60-64

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 30, 32, 41, 42, and 60-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuzaki et al (US 6,289,314) in view of Saitoh et al (US 6,839,851) in view of Garfinkle (US 5,400,402).

**[claim 30]**

In regard to Claim 30, Matsuzaki et al discloses an information processing apparatus, comprising:

- Obtaining content data to be broadcast by digital broadcast transmission, the content data including at least one of video content data or audio content data (Figure 1 shows obtaining content data from the various transmitting stations as further described in Column 13 Lines 15-50);
- Generating discount charge data specifying a charge for use of the content data, the use including at least one of reproducing or copying the content data, (Column 4 Lines 1-55 describe the charge scheme used to determine the charge needed for the use of broadcast data. Furthermore, in Column 6 Lines 8-50 describe the discount information used to discount the rate of data for multiple users or uses of the broadcast stream);
- Inserting the discount charge data into a control message, (Column 15 Lines 13-37 describes inserting discount charge data into the control message);
- Multiplexing the content data with the control message (Column 2 Lines 23+ describes the multiplexing of content data); however, fails to disclose
  - Inserting the discount charge data into a control message, if the charge decreases with a number of times the content data is used;
  - multiplexing the content data with the control message by a first information processing apparatus to produce multiplexed data and

transmitting the multiplexed data via the digital broadcast transmission

- receiving and demultiplexing the multiplexed data by a second information processing apparatus to receive the control message
- recording the received content data onto a recording medium by the second information processing apparatus
- charging for the use of the content data at the second information process apparatus wherein if the received control message includes the discount charge data, then the charge decreases with the number of times the content data is used, and wherein if the received control message does not include the discount charge data, then the charge does not decrease with the number of times the content data is used.

Saitoh et al teaches a system wherein data is multiplexed into a digital broadcast stream (Figure 5 and described in Column 5 Lines 10+) and further receives and demultiplexes first and second control information (Figure 3) prior to recording the information onto the recording medium (Figure 3 and described in Column 3 Lines 25-37). The multiplexing and demultiplexing of data allows for the system to properly store and process the content data being processed within the system. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to use the system of processing discount data, as described by Matsuzaki et al, and further incorporate a system that provides multiplexing and demultiplexing of the control

information into the broadcast stream, as taught by Saitoh, to provide an efficient broadcast transmission method of the content data.

Garfinkle discloses a control system for providing information to a customer further comprising:

- Inserting the discount charge data into a control message, if the charge decreases with a number of times the content data is used (Column 3 Lines 27-50 describes the decreasing the limit and number of times the content can be used);
- charging for the use of the content data at the second information process apparatus wherein if the received control message includes the discount charge data, then the charge decreases with the number of times the content data is used, and wherein if the received control message does not include the discount charge data, then the charge does not decrease with the number of times the content data is used (Column 3 Lines 25+ through Column 4 Lines 1-54 describes the charge decreasing and the limiting of the data to be provided to the user).

It is taught by Garfinkle to provide a system that limits access to the stored program in order to provide proper control of the data in a certain elapsed time period. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to use the system of processing discount data, as described by Matsuzaki et al in view of Saitoh, and further incorporate a system that provides charging the use of

content data from the control message to be decreased via the number of times the content is used, as taught by Garfinkle, in order to provide an efficient broadcast transmission method of the content data.

**[claim 32]**

In regard to Claim 32, Matsuzaki et al discloses an information processing apparatus according to wherein the first control information specifies charging value to be divided in relation to a number when the content data is reproduced an nth time (Column 6 Lines 30-47 describes the charging for reproducing the content data wherein the charging value is related to the content data).

**[claim 41]**

In regard to Claim 41, Matsuzaki et al discloses an information processing apparatus, as disclosed in Claim 30, with the additional limitation of a receiver operable to receive a digital broadcast transmission and demultiplex the received transmission onto the content data and first control information (Figure 1 digital tuner 100 receivers digital broadcast information as recited in Column 13 Lines 15-50).

**[claim 42]**

In regard to Claim 42, the claim limitations have been previously discussed in Claim 32.

**[claim 60]**

In regard to Claim 60, Matsuzaki et al discloses a method wherein the discount charge data specifies a charge which varies inversely with the number of times the content is used (Column 5 Lines 30+ through Column 6 Lines 1-45 describes the charge for reproducing content and the charging value based on the content data being accessed.)

**[claim 61]**

In regard to Claim 61, the claim limitations have been previously discussed in Claim 30.

**[claim 62]**

In regard to Claim 62, the claim limitations have been previously discussed in Claim 60.

**[claim 63]**

In regard to Claim 63, the claim limitations have been previously discussed in Claim 30.

**[claim 64]**

In regard to Claim 64, the claim limitations have been previously discussed in Claim 60.

5. Claim 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuzaki et al (US 6,289,314) in view of Saitoh et al (US 6,839,851) in view of Garfinkle (US 5,400,402) in further view of Kato et al (US 6,470,496).

**[claims 34]**

In regard to Claim 34, Matsuzaki et al in view of Saitoh et al discloses an information processing apparatus; however, fails to disclose wherein the control message includes an ECM (Entitlement Control Message) and the information processing apparatus further includes an encoder operable to code the content data and to multiplex the encoded content data with the ECM via an MPEG (Motion Picture Experts Group 2) transport stream.

Kato et al discloses a system wherein the control message includes an ECM message and furthermore includes an encoder operable to code the content data and to



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multiplex the encoded content data with the ECM via an MPEG 2 Transport stream as seen in Figure 1 and further described in Column 1 Lines 27-57. By providing the first control information into the ECM section of the MPEG 2 transport stream allows for the decrypting encrypted information to be provided as well as information such as the following: word key, scramble keys, date and time information, and recording control information, which is provided throughout the system in order to access the reproducing of content. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the information processing apparatus, as disclosed by Matsuzaki et al in view of Saitoh et al, and further incorporate a system which includes control messaging in the ECM, as further described in Kato et al.

6. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsuzaki et al (US 6,289,314) in view of Saitoh et al (US 6,839,851) in view of Garfinkle (US 5,400,402) in further view of Kato et al (US 6,470,496) in further view of Sonoda et al (US 6,622,004).

**[claim 35]**

In regard to Claims 35, Matsuzaki et al in view of Saitoh et al discloses an information processing apparatus; however, fails to disclose that the encoder is operable to multiplex the encoded content data in a carousel manner and the control message includes information inserted into an adaptation header of a DII (Download Info Indication) packet of the transport stream.

Sonoda et al discloses a system wherein the encoding of the content data is done in a carousel manner and the control message includes the download info

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indication packet as further described in Column 16 Lines 15+. The transmitting of packets in the carousel manner allows for selectively receiving of data and the placement of control information through the DII packet allows for an easier processing by the system. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the information processing apparatus, as disclosed by Matsuzaki et al in view of Saitoh et al, and further incorporate a system wherein the encoding is done in a carousel manner and includes information into the adaptation header of the DII, as disclosed by Sonoda et al.

**[claim 36]**

In regard to Claim 36, the claim limitations have been previously discussed in Claim 35.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to I was whose telephone number is (571)272-7384. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/JAMIE JO ATALA/  
Examiner, Art Unit 2621